



July 28, 2009

Division of Global Migration and Quarantine
Centers for Disease Control
U.S. Department of Health and Human Services
Attn: Part 34 NPRM Comments
1600 Clifton Road, NE MS E-02
Atlanta Georgia 30333

RE: Proposed Revision to 42 CFR part 34 Regulation to Remove “Human Immunodeficiency Virus (HIV) Infection from the definition of “communicable disease of public health significance.” (Part 34 HIV Revision Proposal) – Docket no. CDC-2008-0001, dated July 2, 2009.¹

To the CDC:

Please accept these comments strongly supporting the proposal to remove human immunodeficiency virus (HIV) infection from the list of “communicable disease[s] of public health significance” enumerated in 42 CFR part 34. This long-overdue amendment to part 34 would complete the change in policy that began with last year’s repeal of the outmoded and insupportable statutory provisions of the Immigration and Nationality Act² that served to bar immigration and restrict travel on the basis of HIV status. HIV positive individuals are not a significant health threat for introduction, transmission and spread of HIV to the US population. They should neither be barred from entry on this basis nor subject to medical examination for HIV status as a condition of entry.

These comments are submitted on behalf of the AVAC, a New York-based non-profit public interest organization dedicated to accelerating ethical research and eventual global delivery of new HIV prevention options to fight the AIDS pandemic.

Other organizations, such as Gay Men’s Health Crisis (GMHC) and the Human Rights Campaign, will submit or have submitted comments in support of the Part 34 HIV Revision Proposal. These remarks endorse those submittals.

¹ http://www.cdc.gov/ncidod/dq/laws_regs/fed_reg/remove-hiv/index_hiv.htm

² Formerly 8 U.S.C. §1182(a)(1). These statutory provisions lacked a valid public health rationale when they were enacted in 1993 since HIV is not casually transmitted. That lack is even more apparent today when profound advances in HIV treatment and understanding of epidemiology, demographics and transmission have altered the public health situation significantly.

However, we also document the serious adverse consequences that failure to adopt the Part 34 HIV Revision Proposal would have on the scientific research the United States conducts through government, private entity, academic and philanthropic organizations to prevent and treat HIV. These adverse consequences result when investigators, representatives of affected international communities and others are unreasonably restricted and effectively barred from entering the U.S. to attend conferences, participate in research or work with an extended group of colleagues.

The United States HIV study effort far exceeds the scope of research conducted elsewhere in terms of budget, person power, range and commitment. By way of example, the U.S. funded ~71% of all global public investment in HIV vaccine research in 2008 and virtually all of such research from philanthropic domestic sources. Similar percentages of funding apply to all other HIV prevention research measures and to HIV/AIDS treatment.³ NIH allocated in FY2009 approximately ~\$3.0 billion to HIV/AIDS, an effort that all U.S. researchers have organized into a global, partnership enterprise.⁴ The Part 34 HIV Revision Proposal would increase the cost-effectiveness of these investments by supporting the interactions between the extended research community and its partners in study populations.

Barriers to entry must be removed to accomplish this goal of international partnership in HIV research. But barriers persist. As is well-known by now, the International AIDS Society (IAS), the leading global organization dedicated to the study of HIV prevention and treatment efforts, has adopted an official policy keeping the U.S. off limits as a meeting site for scientific conferences due to the inequitable and discriminatory restrictions on travel imposed on persons with HIV.⁵

There is no supportable rationale to justify the continuation of the restrictions that would be removed by the Part 34 HIV Revision Proposal. Authoritative leaders of the domestic science effort and domestic and international health organizations directly contradict the alleged severity in public health which would justify such a restriction. A threat to health from communicable disease or to resources simply does not exist.

The Part 34 HIV Revision Proposal would remove current travel restrictions at odds with notions of international reciprocity and parity. The U.S. global programs to prevent and treat HIV rely on workable travel permissions for U.S. citizens involved in health care and with HIV to travel abroad conveniently with minimal burden. The same respect must be offered for those seeking to enter this country for scientific and research purposes. Those purposes include not only formally organized meetings but also other interactions with staffs, private and philanthropic organizations, and planners that are part of the research process. Research is quite literally, a “two way street.”

For the reasons described here, we strongly urge adoption of the Part 34 HIV Revision Proposal.

³ www.hivresourcetracking.org

⁴ <http://www.oar.nih.gov/budget/pdf/OAR10CJ.pdf>

⁵ IAS Policy Paper. Banning Entry of People Living with HIV/AIDS, dated November 16, 2007.
http://www.iasociety.org/Web/WebContent/File/ias_policy%20paper_08.pdf

Please contact me if you have any additional questions.

Sincerely,